

AGREEMENT FOR PAYMENTS IN LIEU OF TAXES

THIS AGREEMENT is made and entered into by and among Memphis Volunteers of America Elderly Housing, Inc., a Tennessee not-for-profit corporation, for the operation of "Casa Grace", (the "Property"), and the County of Shelby (the "County"), on this the _____ of _____, 2009, for payments by Memphis Volunteers of America Elderly Housing, Inc. allowing the County to recoup the County's costs of providing improvements, facilities and services to Memphis Volunteers of America Elderly Housing, Inc. in-lieu-of real property tax, said Agreement effective upon tax exemption by the State of Tennessee. This Agreement is void unless and until said exemption is granted by the State of Tennessee.

WHEREAS, Memphis Volunteers of America Elderly Housing, Inc. is the owner of a certain parcel of real property particularly described in collective attachments hereto, which property is located at 3815 Austin Peay Hwy, Memphis, Shelby County, Tennessee, and which is identified in the office of the County Assessor under Tax Parcel Number 086 015 000077, ("the Property"); and

WHEREAS, the Property is improved as a 45 rental unit apartment building for elderly and handicapped persons, and includes one non-exempt additional manager's unit, and operates either under a grant from the Memphis Div. of Housing and Urban Development's HUD 202 Program, or is authorized by Title IV of the McKinney-Vento Homeless Assistance Act and 24 CFR Part 582 for HUD funded rental assistance, or is subject to a Federal Home Loan Bank (Federal Housing Finance Board) grant and/or federal grant or loan, and is located on the Property described in the enumerated exhibits hereto; and

WHEREAS, T.C.A. Section 67-5-207 exempts from real property taxes property of Tennessee not-for-profit corporations qualifying under HUD 202 Program, the McKinney-Vento Act and HOME Investment, or a Federal Home Loan Bank (Federal Housing Finance Board) grant and/or loan upon compliance with law and the State Board of Equalization ("SBOE") rules; and

WHEREAS, T.C.A. Section 67-5-207(a)(2) provides for payments in lieu of real property taxes to be made by property owners granted an exemption under this Section in amounts not to exceed the estimated costs incurred by municipalities or counties to provide improvements, facilities and/or services to the property upon exemption; and

WHEREAS, Memphis Volunteers of America Elderly Housing, Inc. has applied to the SBOE for an exemption from real property taxes for the Property, and said exemption would be conditioned upon certain conditions, including the filing of an agreement with the State Board of Equalization for payments allowing local governments to recoup costs of improvement, facilities and services; and

WHEREAS, the County agrees that Memphis Volunteers of America Elderly Housing, Inc. complies with the conditions and intent of the statute, and that the Property and its intended use complies with the provisions of T.C.A Section 67-5-207; however, the exemption of the Property is subject to the determination of the State Board of Equalization. Therefore, this

Agreement to reimburse the County for improvements, facilities and services is conditioned upon the approval of the exemption. Otherwise, unless the Property is otherwise exempted under some other means, including a PILOT agreement and leaseback by a governmental entity, then the normal taxes shall apply; and

WHEREAS, Memphis Volunteers of America Elderly Housing, Inc. and the County desire to enter this Agreement requiring Memphis Volunteers of America Elderly Housing, Inc. to reimburse the County for improvements, facilities and services provided to the Property in accordance with T.C.A. Section 67-5-207(a)(2).

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS SET OUT HEREIN, the receipt and sufficiency of such being hereby acknowledged, the parties agree as follows:

1. Beginning with the effective date of the real property exemption for the Property granted by the State Board of Equalization, Memphis Volunteers of America Elderly Housing, Inc. shall pay to the County for each calendar year (and pro rata for any part of a calendar year for which the tax exemption is in effect) the total sum of \$2,700 (an amount equal to five dollars (\$5) per month per unit) to reimburse the County for the costs of providing improvements, facilities and services to the exempt Property. Any non-exempt property shall be regularly assessed.

2. Within thirty (30) days of the granting of the tax exemption by the SBOE, Memphis Volunteers of America Elderly Housing, Inc. shall pay to the County all outstanding real property taxes on the Property for periods prior to the date of the exemption, if any.

3. Subject to Paragraph 4 below, the recoupment cost or payment in lieu of tax required by this Agreement are to be made on or before February 28th each year. Any payments in lieu of tax not made when due shall thereafter bear interest at the highest rate allowable under applicable law.

4. The payments in lieu of tax provided for herein shall continue to be due and payable in the amounts specified herein until the date on which the Property is no longer eligible for real property tax exemption under T.C.A. §67-5-207.

5. The parties to this Agreement acknowledge that the costs to the County to provide improvements, facilities and/or services to the Property may be greater than the amount of recoupment specified herein or as amended or modified pursuant to this Agreement, and that such costs may increase substantially during the time the Property is entitled to exemption from real property taxes. In consideration of the agreement by the County to accept payments in lieu of real property tax in amounts less than the regular taxes, and in order to lessen the burden on the County of providing improvements, facilities and/or services to the Property, Memphis Volunteers of America Elderly Housing, Inc. agrees that it will cooperate fully with the County to examine and re-negotiate the terms of this agreement every three (3) years from the date of this agreement.

6. The parties agree that these recoupment payments, which may be termed as "payments in lieu of taxes" by the State Board of Equalization, and which reimburse the County for costs provided for herein are entirely separate from, and in addition to, any payments that may be required for garbage fees, sewer fees or other similar fees that may be imposed on all residents of the City or County in the future.

7. This Agreement shall be governed by, and construed in accordance with, the law of the State of Tennessee, and shall further inure to the benefit of, and shall be enforceable by and against, the parties hereto, their respective successors and assigns.

8. Memphis Volunteers of America Elderly Housing, Inc. represents and warrants that it is a not-for-profit corporation duly organized and incorporated in the State of Tennessee; that it has received, and at all time during the period of this Agreement, will maintain federal tax exempt status under Section 501(c)(3) or other sections of the Internal Revenue Code of 1986, as amended; and that the Property is and shall remain, at all times relevant during the period of this Agreement, in full compliance with the HUD Agreements, Deeds of trusts and other documents or qualifying conditions under Tenn. Code Annotated Section 67-5-207, and other applicable law affecting continued eligibility for exemption from real property taxes or revocation conditions under Tenn. Code Annotated Section 67-5-212.

IN WITNESS WHEREOF, Memphis Volunteers of America Elderly Housing, Inc. and the County have executed this Agreement the day and year first written above to be effective upon and conditioned upon the Tennessee State Board of Equalization granting a tax exemption pursuant to Tenn. Code Ann. Section 67-5-207 for the Property.

MEMPHIS VOLUNTEERS OF AMERICA ELDERLY HOUSING, INC.

BY: _____

TITLE: _____

ATTEST:

SECRETARY

COUNTY OF SHELBY, TENNESSEE

BY: _____
A C WHARTON, JR., COUNTY MAYOR

APPROVED AS TO FORM:

ASST. COUNTY ATTORNEY